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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Myanmar

Report of the Secretary-General

I. INTRODUCTION

1. The present report is submitted pursuant to General Assembly resolution 51/117 of 12 December 1996, entitled "Situation of human rights in Myanmar", in which the Assembly requested me to continue my discussions with the Government of Myanmar in order to assist in the implementation of the resolution and in its efforts for national reconciliation, and to report to the Assembly at its fifty-second session and to the Commission on Human Rights at its fifty-third session.

2. As I have indicated in previous reports, I consider the role entrusted to me by the General Assembly, and reaffirmed by the Commission on Human Rights, as being essentially one of good offices, in contrast to the fact-finding mandate assigned by the Commission to the Special Rapporteur.

3. Following the adoption of resolution 51/117, the Permanent Representative of Myanmar to the United Nations was asked in January 1997 to convey to his Government a proposal that the Director of the East Asia and the Pacific Division, Mr. Francesc Vendrell, undertake a visit to Myanmar as part of his routine consultations with the countries of the region, and to lay the groundwork for a subsequent visit to Yangon by my Envoy. During the visit, which took place from 17 to 21 February, Mr. Vendrell held consultations with the Minister for Foreign Affairs, U Ohn Gyaw, the Minister for Progress of Border Areas and National Races and Development Affairs, Lt.-Gen. Maung Thint, the Minister for Cooperatives and General Secretary of the Union Solidarity and Development Association (USDA), U Ko Lay, the Chief Justice and Chairman of the

Work Committee of the National Convention Convening Committee, U Aung Toe and other authorities. He also held consultations with leaders of political parties, namely, the National League for Democracy (NLD), including its General Secretary, Daw Aung San Suu Kyi, the National Unity Party (NUP) and the Shan Nationalities League for Democracy (SNLD).

4. During his stay, Mr. Vendrell raised with the Myanmar authorities the desirability of more regular visits to Myanmar by my representatives under formulae that would enable them to meet with any political leader they considered appropriate, thus obviating the contentiousness that such visits had provoked in the past and which had kept my representatives from going to Myanmar in the course of 1996.

5. The visit paved the way for a subsequent one from 7 to 10 May 1997 by my Envoy, Mr. Alvaro de Soto, Assistant Secretary-General for Political Affairs. In Yangon he held consultations with Secretary-1 of the State Law and Order Restoration Council, Lt.-Gen. Khin Nyunt, Foreign Minister U Ohn Gyaw and Chief Justice U Aung Toe, as well as with other authorities from various ministries and services. Subsequently he held meetings with leaders of political parties, namely, the NLD, including its General Secretary Daw Aung San Suu Kyi, the NUP and the SNLD.

6. I myself had the opportunity of discussing the situation in Myanmar with Foreign Minister U Ohn Gyaw when I received him on 27 June on the occasion of the special session of the General Assembly on Agenda 21. Subsequent to that meeting, a further round of talks took place in New York on 1 October between the Minister for Foreign Affairs and my Envoy.

II. DISCUSSIONS WITH THE GOVERNMENT OF MYANMAR

7. The discussions that my representatives and I held with the Minister for Foreign Affairs and other Myanmar authorities covered the main issues repeatedly stressed by the General Assembly, in particular the holding of a substantive political dialogue between the Government and Daw Aung San Suu Kyi and other political leaders and representatives of ethnic groups; the composition and timing of the proceedings in the National Convention; the situation of the Karens and other ethnic groups; restrictions on the normal functioning of political parties, the NLD in particular, and other political freedoms; access by the International Committee of the Red Cross to prisons and other places of detention; and the desirability of an early visit by the Special Rapporteur so that he would be in a position to provide the General Assembly with objective, first-hand information about the human rights situation in the country.

8. On the question of opening a substantive political dialogue with the NLD and Daw Aung San Suu Kyi, the Myanmar authorities reiterated their position that such a dialogue was only possible within the framework of the National Convention from which the NLD had withdrawn and subsequently been expelled, and that the State Law and Order Restoration Council accorded greater priority to talks with the national races and the resolution of the various insurgencies that had plagued the country since independence. At the meeting in October with my Envoy, the Foreign Minister reported that Secretary-1 had met in July with

the Chairman of the NLD, U Aung Shwe, and two members of its Central Executive Committee. Another meeting with U Aung Shwe had been proposed in September but did not take place because the NLD considered that its Chairman should be accompanied by Daw Aung San Suu Kyi in her capacity as General Secretary of the party, something the Government could not agree to because it did not recognize her position within the NLD. The NLD, which continues to report incidents of harassment, arrests and imprisonment of its members, has reiterated its willingness to engage in a political dialogue without preconditions, but has declared that, in accordance with the principles laid down by the NLD's elected representatives and organizational committees, party matters must be handled jointly by the Chairman and the General Secretary. Neither the Government nor the NLD considers that the contacts to date between them amount to the start of a political dialogue. The Minister suggested in October that contacts with the NLD might be held in stages, leaving open the possibility that they might lead to discussions on substantive matters. More recently, the NLD was able at the end of September to hold a party congress, reportedly attended by 700 participants, the Foreign Minister stating that party gatherings could be held as long as permission was given and that the gatherings took place in accordance with Myanmar laws. There have, however, been reports of continued restrictions on the functioning of the NLD on previous and subsequent occasions.

9. Regarding the National Convention, the Myanmar authorities explained that it had not met since March 1996 because the constitutional chapter to be considered next dealt with the key issue of power-sharing between the central Government and the states, divisions and future self-administered areas and zones. This required extensive discussions and a consensus with the national races needed to be built. (Representatives of political parties and national races, though, said that they were not aware of such discussions taking place.) There continued to be, however, frequent meetings of the National Convention Convening Committee. The Foreign Minister was thus not in a position to give a time-frame for the resumption of the Convention, but reiterated that the Government's goal was the establishment of a constitutional and multi-party system. Inquiries revealed no indication by the authorities that they might be considering changes in the composition and procedures of the National Convention to make them more representative and transparent.

10. According to the Foreign Minister, the Government had obtained assurances from the insurgent groups that had "come into the legal fold" that they would give up their arms once the constitution was in place. While the armed groups that had returned to the legal fold earlier were taking part in the National Convention, those which had joined later participated as observers. As regards the Karen National Union (KNU), the Government had held four rounds of talks with them, but they had not agreed to lay down their arms, a situation the Government attributed to the existence of splits within their ranks and the influence of outside powers. The KNU, for its part, considers that the failure of the talks has been due to the Government's refusal to discuss issues of a political nature.

11. The Government reiterated that the door remained open for further discussions with the International Committee of the Red Cross, but that laws dating back to colonial days prevented the Government from accepting the

International Committee's conditions regarding access to prisoners and detainees.

12. The Government has responded to my own repeated requests and those of my representatives that the Special Rapporteur be allowed to visit Myanmar by saying that, since the latter's predecessor had submitted reports that did not reflect the real situation in the country, it had become necessary in the national interest to exercise considerable restraint but that a visit might take place at an appropriate time.

13. The Government reaffirmed its desire for continued dialogue with the United Nations, although in its view, this need not necessarily involve visits to Myanmar by my representatives. Prior to the submission of the present report there had been no reply to my Envoy's request that he visit Yangon in October.

III. CONCLUDING OBSERVATIONS

14. I was gratified by the visits to Myanmar in the first half of 1997 by my Envoy and the Director of the East Asia and the Pacific Division, since I regard it as essential that my representatives meet regularly with the highest authorities in the State Law and Order Restoration Council, as well as with leaders of other relevant political forces. I regret that it has not been possible so far to arrange a visit in the second half of 1997. I welcome the contacts between the Government and the NLD as an initial step, which I earnestly hope will be the harbinger of a genuine political dialogue with the party that won the majority of votes at the last general election and which, together with the involvement of the national races, I consider essential for the achievement of the twin goals of democratization and national reconciliation. I also take positive note of the fact that the NLD was recently able to hold a party congress and hope that the same tolerance will be shown towards other NLD events and to its members on future occasions. At the same time, I cannot hide my disappointment that I am not in a position to report further progress as regards the areas regarding which the General Assembly and the Commission on Human Rights have for several years expressed concern. I wish to conclude by reaffirming my commitment to continue the dialogue with the Government and other political forces of Myanmar in pursuit of the goals set forth by the membership of the Assembly.